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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT: Robert C. Heath et al)
SERIAL NO.: 09/491094)
FILED: 01/24/2000)
FOR: DISPOSABLE LID FOR A CUP)
DOCKET NO.: 006565.00002)
ART UNIT: 3727)
EXAMINING ATTORNEY: Hylton, Robin.

U.S. Patent & Trademark Office
Mail Stop Appeal Brief - Patents
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APPELLANT'S REPLY

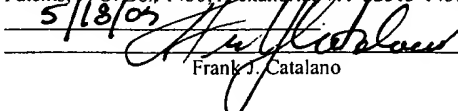
This is in response to the Examiner's Answer dated 03/24/2005.

The Examiner's Answer argues, as reasons for sustaining rejection, that:

1. Dvoracek's clamp walls are structurally equivalent;
2. Appellant "asserts" that Dvoracek "captures," not clamps;
3. Dvoracek is capable of performing Appellant's intended use;
4. Dvoracek is capable of use with a cup; and
5. It would be obvious to use Appellant's frustoconical spout.

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5/18/05 
Frank J. Catalano

Appellant respectfully disagrees, the following enumerated responses to these arguments corresponding to the enumerations of the Examiner's arguments as given above:

1. Dvoracek's clamp walls are not structurally equivalent. The narrowest part of Dvoracek's outer lip is not opposed by any inner lip and so could not clamp the rim of the cup.
2. Appellant's "assertion" is not whimsical. It is taken directly from the reference (Col.4, Ln.12-14). The narrowest portion of Dvoracek's outer lip does not even touch the cup. The outer lip touches only the captured ridge 32 of the can, a ridge which is not present on a rim of a cup.
3. Dvoracek cannot perform Appellant's use because the structure of Dvoracek requires a ridge (like the ridge formed by the folded top and sidewalls of a metal can). Cups do not have such a ridge.
4. Dvoracek does not have any structure opposed to its narrowest point on the outer lip. Therefore, Dvoracek could not clamp the rim of the cup between opposed lips.
5. The art is crowded. There is no reference teaching the claimed contour. There is no basis for the Examiner's conclusion outside of Appellant's own disclosure.

CONCLUSION

Appellant respectfully submits that the claims in this application are allowable for the reasons set forth in Appellant's Brief and in this Reply and respectfully requests that the Examiner's rejections of the claims be reversed by the Board.

Respectfully submitted



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